



HOMELAND SECURITY BIOMETRIC IDENTIFICATION & PERSONAL DETECTION ETHICS WORKSHOP

HIDE

We work to make the world a safer and freer place by promoting an open dialogue on liberty, security and democracy and by building confidence and improving understanding among key international actors.

Restrictions in the Implementation of EU Data Protection Directive for Public Interest, Security and Defence



**LJUBLJANA, SLOVENIA
17-18 September, 2009**

**Sponsored by
HIDE Project
With funding from the European Commission
7th Framework Programme, Grant 217762**

Workshop Organizers

**Centre for Science, Society and Citizenship
Italy**

**University of Ljubljana
Slovenia**

Background



In the context of a European Commission funded project on Homeland Security, Biometrics Identification & Personal Detection Ethics - HIDE (www.hideproject.org), a problem-solving workshop is being organized which aims to bring together individuals and representatives from the European governmental and non-governmental organisations, with the emphasis on the New Member and Balkan States, to identify and discuss ethical and other issues related to the restrictions of the scope of rights in the implementation of EU data-protection principles when such restrictions constitute the necessary measures to safeguard important public interests, security and defence.

This workshop is part of the HIDE project activities, whose mission is to establish a platform devoted to monitor the ethical and privacy implications of biometrics and personal detection technologies. HIDE is a research collaboration between 11 partners from Europe, Singapore and USA, and is coordinated by Prof. Emilio Mordini, Centre for Science, Society and Citizenship (CSSC), Rome, Italy.

Rationale of the Workshop



Article 13 of the *directive 95-46/EC of the European Parliament and the Council on the protection of the individuals with regard to the processing of personal data and the free movement of such data* states that Member States may adopt legislative measures to restrict the scope of the rights provided for in this directive when such a restriction constitutes a necessary measure to safeguard:

- (a) national security;
- (b) defence;
- (c) public security;
- (d) the prevention, investigation, detection and prosecution of criminal offences, or of breaches of ethics for regulated professions;
- (e) an important economic or financial interest of a Member State or of the European Union, including monetary, budgetary and taxation matters;
- (f) a monitoring, inspection or regulation function connected, even occasionally, with the exercise of official authority in cases referred to in (c), (d) and (e);
- (g) the protection of the data subject or of the rights and freedoms of others.



It is well known that the existing practices and the legislative measures regarding the above article are not harmonised across the EU Member States. This is especially true for the New Member and Balkan States. The world economic crisis, organized crime activities, terrorist and health threats force Member States to adopt new legislative measures and deploy biometric and personal detection technologies used to safeguard public interests, security and defence. What each Member State wants to make in order to determine its level of security differs from state to state and their appreciation of what may constitute “a necessary measure” and an “important public interest” is, by its very nature, a major source of discrepancy among national legislations. The implementation of harmonising practices in this field as well as per Articles 25–26 (Transfer of Personal Data to Third Countries) thereby remains a vital issue.

Following the enlargement of the EU, the New Member States are now in charge of monitoring the external border of the EU. The enhancement of the European border-security level requires a better interoperability of the technologies deployed at borders, such as biometrics, but also poses some harmonisation problems. In particular, the application of the principle of proportionality has raised controversies in some New Member States. We need to reconcile two fundamental requirements: to effectively tackle threats to people's life in Europe, especially in security matters, and at the same time to protect fundamental rights, including data-protection rights.

Workshop Format

The workshop is designed to bring together individuals from different sides of the privacy vs. security conflict in a “safe” environment to address questions that are otherwise difficult to discuss. A few basic rules for the workshop are:

- The workshop is a dialogue, not a debate: participants are not being asked to defend their own views or to find the weakness in others’ positions, but to explain their own perspectives;
- Parties speak for themselves only, not as representatives of groups, institutions, governments, etc.
- Parties are expected to use the rich, multidisciplinary, context to identify small but meaningful steps to take; they are not expected to find one-shot resolutions of complex problems.

An important goal in this workshop is strengthening the perception that further dialogue among the participants is going to be fruitful due to increased insights into each other’s perspectives, and the sense that conversation is of value. This workshop is thus designed to reach two parallel and coordinated results:

- First, it should encourage an analytical approach to joint problem solving that will be conducive to the emergence of creative win-win solutions;
- Second, it should also alter stereotyped, negative, and rigid images and thereby pave the way for a constructive approach to debated issues.

Organizers

The main organizers of the workshop are the Centre for Science, Society and Citizenship (CSSC), Rome, Italy, and the University of Ljubljana, Slovenia, in collaboration with HIDE partners like: Sagem Sécurité (France), International Biometric Group (USA), The Hastings Center (USA), Eutelis Consult Italia & Associates (Italy), Centre for Biomedical Ethics (Singapore) etc. The co-directors of the workshop are Prof. Emilio Mordini (CSSC) and Prof. Nikola Pavešić (University of Ljubljana).

For more information and queries about the workshop, please contact Mr. Simon Dobrišek by email simon.dobrissek@fe.uni-lj.si or by phone +386 1 4768 839.

Workshop Programme

Thursday, 17 September 2009

08.30 – 09.00 *Registration and Welcome Refreshment*

09.00 – 09.20 *Welcome Addresses*

09.20 – 09.50 *Opening Lecture*

09.50 – 12.30 *Session I*

The circumstances that may lead to the restriction of EU data-protection principles

Member States may restrict data protection principles under certain circumstances, as stated in Article 13 of the directive 95-46/EC, when such a restriction constitutes a necessary measure to safeguard important public interests. ***What are these circumstances and who defines them as such? What may constitute “a necessary measure” and an “important public interest”? What about the ethical considerations of such “circumstances” and their implications on data-protection rights?***

Workshop Programme - Continued

Thursday, 17 September 2009 - Continued

12.30 - 14.00 (*Lunch Break*)

14.00 - 17.00 *Session II*

The impact of counter-terrorist border-control legislative measures on privacy protection

Terrorist and other threats force Member States to adopt new legislative measures and deploy biometric and personal detection technologies for safeguarding border security. These measures and technologies greatly interfere with data-protection principles. ***What is the impact of counter-terrorist border-control EC packages, like the so-called Frattini package, on the implementations of the data-protection directive?*** The New Member States are now in charge of monitoring the external border of the EU. ***Are EU borders safe? What privacy price do EU citizens pay for this safety?***

17.00 - 18.00 *Networking Drinks*

19.00 - 22.00 *Workshop Dinner*

Friday, 18 September 2009

09.00 - 09.20 *Welcome Refreshment*

09.20 - 10.50 *Session III*

The application of the principle of proportionality in the restriction of data-protection rights

The principle of proportionality is a fundamental principle of the EU data-protection law. ***How is this principle considered in the legislative measures involving the restrictions of data-protection rights for public interests? Can we find a balance between "an important public interest" and the data-protection rights? Which data-protection rights are more and which less important when compared to "an important public interest?"***

10.50 - 11.20 (*Coffee Break*)

11.20 - 13.10 *Session IV*

The implementation of harmonizing practices in the New Member and Balkan States

The appreciation of what may constitute "a necessary measure" and an "important public interest" is a major source of discrepancy among national legislations. The implementation of harmonising practices in this field is a vital issue. ***What are the discrepancies that are related to the restrictions of data-protection rights? How can the legislative practices in this field be harmonized?***

13.00 - 14.00 (*Farewell Lunch*)